

limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Have not been denied, or terminated from, refugee cash assistance under § 400.82 of this part;

(5) Provide the name of the resettlement agency which resettled them; and

(6) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part or a plan for an unaccompanied minor in accordance with § 400.112.

(b) A refugee may be eligible for refugee medical assistance under this subpart during a period of time to be determined by the Director in accordance with § 400.211.

(c) The State agency may not require that a refugee actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(d) All recipients of refugee cash assistance who are not eligible for Medicaid are eligible for refugee medical assistance.

[45 FR 59323, Sept. 9, 1980, as amended at 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33603, June 28, 1995]

**§ 400.101 Financial eligibility standards.**

In determining eligibility for refugee medical assistance, the State agency must use—

(a) In States with medically needy programs under 42 CFR Part 435, Subpart D, the State's medically needy financial eligibility standards established under 42 CFR Part 435, Subpart I, and as reflected in the State's approved title XIX State Medicaid plan; and

(b) In States without a medically needy program, the State's AFDC need standards established under § 233.20(a)(2) of this title.

**§ 400.102 Consideration of income and resources.**

(a) Except as specified in paragraph (b) of this section, in considering financial eligibility of applicants for refugee

medical assistance, the State agency must use—

(1) In States with medically needy programs, the standards governing determination of income eligibility in 42 CFR 435.831, and as reflected in the State's approved title XIX State Medicaid plan; and

(2) In States without medically needy programs, the standards governing consideration of income and resources of AFDC applicants in § 233.20(a) (3) through (11) of this title, except as specified in § 400.61(a) of this part.

(b) The State may not consider in-kind services and shelter provided to an applicant by a sponsor or resettlement agency in determining eligibility for and receipt of refugee medical assistance.

**§ 400.103 Coverage of refugees who spend down to AFDC need standard.**

In States without a medically needy program, if an applicant for refugee medical assistance does not meet the appropriate AFDC need standard, the State agency must allow that individual to spend down to the AFDC need standard using the methods for deducting incurred medical expenses set forth in 42 CFR 435.831(c).

**§ 400.104 Continued coverage of recipients who receive increased earnings from employment.**

If a refugee who is receiving refugee medical assistance receives increased earnings from employment, the increased earnings shall not affect the refugee's continued medical assistance eligibility. The refugee shall continue to receive refugee medical assistance until he/she reaches the end of his or her time-eligibility period for refugee medical assistance, in accordance with § 400.100(b). In cases where a refugee obtains private medical coverage, any payment of RMA for that individual must be reduced by the amount of the third party payment.

[60 FR 33603, June 28, 1995]

**SCOPE OF MEDICAL SERVICES**

**§ 400.105 Mandatory services.**

In providing refugee medical assistance to refugees, a State must provide